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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/710,162	11/10/2000	Richard M. Onyon	FUSI-00000	4588
7590 Thomas B. Haverstock 162 North Wolfe Road Sunnyvale, CA 94086		01/15/2009	EXAMINER PATEL, HARESH N	
			ART UNIT	PAPER NUMBER
			2454	
		MAIL DATE	DELIVERY MODE	
		01/15/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Advisory Action Before the Filing of an Appeal Brief</i>		Application No. 09/710,162	Applicant(s) ONYON ET AL.	
		Examiner HARESH N. PATEL	Art Unit 2454	
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --				
THE REPLY FILED 31 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.				
<p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection. <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>				
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>				
<p>NOTICE OF APPEAL</p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p>				
<p>AMENDMENTS</p> <p>3. <input type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <ul style="list-style-type: none"> (a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below); (b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below); (c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims. <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input type="checkbox"/> will not be entered, or b) <input checked="" type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: <u>None</u>.</p> <p>Claim(s) objected to: <u>None</u>.</p> <p>Claim(s) rejected: <u>1-4, 6-10, 27-29, 31 and 38</u>.</p> <p>Claim(s) withdrawn from consideration: <u>None</u>.</p>				
<p>AFFIDAVIT OR OTHER EVIDENCE</p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p>				
<p>REQUEST FOR RECONSIDERATION/OTHER</p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u></p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____</p> <p>13. <input type="checkbox"/> Other: _____.</p>				
<p>/HARESH N PATEL/ Primary Examiner, Art Unit 2454</p>				

Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper. Also, the specification of the application under prosecution at page 32, clearly states, The many features and advantages of the present invention will be apparent to one of average skill in the art. All such features and advantages are intended to be within the scope of the invention as defined by the above specification and the following claims, etc. Since, applicant's claims contain broadly claimed subject matter it clearly reads upon the examiner's interpretation of the claimed subject matter.

As present in the prosecution, the obviousness-type double patenting over Multer et al, Fusionone Inc., U.S. Patent No. 6,694,336, is neither addressed in the remarks dated 12/31/2008 nor a terminal disclaimer has been submitted to overcome the double patenting rejection.

Regarding the remarks dated 12/31/2008, Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See In re Wilder, 166 USPQ 545, 548 (CCPA 1970). Hence, considering the applicant's remarks to further explain, please see the applicant concerned claimed subject matter of the claims for the facts, i.e., "transferring media data to a network coupled apparatus, comprising:" is open-ending meaning not limited to "transferring difference information etc.". The fact is that the cited prior arts used for the rejection not only supports transferring media data to a network couple apparatus that is not limited to "transferring difference information etc." but also the user necessary media data along with the transferring of "difference information etc." for the user. The claimed subject matter neither contains what the "personal information space" is limited to nor limited to where the "personal information store" is located on the network. In fact the body of claim 27 does not even contain "network" in the body of the claimed subject matter. The claim 1 does not even contain "personal information store" also. The claimed "generating a first copy" "generating a second copy", etc., is not limited to whether it is performed automatically or done somehow by a single user or somehow done by several different users, etc. The claimed "first copy" "second copy" etc., is not limited to whether these copies are in same format or different formats or a backup etc. Considering all the facts, the rejections are made under 35 U.S.C 103(a) rejections rather 35 U.S.C. 102 and the further, when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969).